

## National Council On Disability

## § 10000.8

notify the requester of the referral and inform the requester of the name(s) of the agency to which the record was referred, including that agency's FOIA contact information.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if the Council responding to a request for records on a living third party locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party was not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion of the personal privacy of the third party. Similarly, if the Council locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could cause national security harms. In such instances, in order to avoid harm to an interest protected by an applicable exemption, the Council should coordinate with the originating agency to seek its views on the disclosability of the record. The release determination for the record that is the subject of the coordination should then be conveyed to the requester by the Council.

### § 10000.7 Administrative appeals.

(a) You may appeal an adverse determination related to your FOIA request, or the Council's failure to respond to your FOIA request within the prescribed time limits, to the Executive Director, National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC 20004.

(b) Your appeal must be in writing and must be postmarked or electronically received by the Executive Director within 60 days of the date of the letter denying your request, in whole or in part. For the most expeditious handling, your appeal letter and envelope should be marked "Freedom of In-

formation Act Appeal" and reference the request number.

(c) The Executive Director shall respond to all administrative appeals in writing and within the time frame stated in § 10000.8(d). If the decision affirms, in whole or in part, the Chief FOIA Officer's determination, the letter shall contain a statement of the reasons for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA's provisions for court review. If the Executive Director reverses or modifies the Chief FOIA Officer's determination, in whole or in part, you will be notified in writing and your request will be reprocessed in accordance with that decision. The Council may work with Office of Government Information Services (OGIS) to resolve disputes between FOIA requestors and the Council. A requester may also contact OGIS in the following ways: Via mail to OGIS, National Archives and Records Administration, 8601 Adelphi Road—OGIS, College Park, MD 20740 ([ogis.archives.gov](mailto:ogis.archives.gov)), via email at [ogis@nara.gov](mailto:ogis@nara.gov), or via the telephone at 202-741-5770 or 877-684-6448. Facsimile is also available at 202-741-5769.

### § 10000.8 Timeframe for Council's response to a FOIA request or administrative appeal.

(a) *In general.* The Council ordinarily shall respond to requests according to their order of receipt.

(b) *Multi-track processing.* (1) The Council may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including through limits based on the number of pages involved. If the Council does so, it shall advise requesters in its slower track(s) of the limits of its faster track(s).

(2) Using multitrack processing, the Council may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of the Council's faster track(s). In doing so, the Council will contact the requester by telephone, letter, or email, whichever is more efficient in each case.

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(c) *Initial decisions.* The Council shall determine whether to comply with a FOIA request within 20 working days after our receipt of the request, unless the time frame for response is extended due to unusual circumstances as further described in paragraph (f) of this section. A request is received by the Council, for purposes of commencing the 20-day timeframe for its response, on the day it is properly received by the FOIA Officer. The request must meet all requirements described by these regulations and the FOIA before the 20-day timeframe commences.

(d) *Administrative appeals.* The Executive Director shall determine whether to affirm or overturn a decision subject to administrative appeal within 20 working days after receipt of the appeal, unless the time frame for response is extended in accordance with paragraph (e) of this section.

(e) *Tolling timelines.* We may toll the 20-day timeframe set forth in paragraph (c) or (d) of this section:

(1) One time to await information that we reasonably requested from you, as permitted by 5 U.S.C. 552(a)(6)(A)(iii)(I);

(2) As necessary to clarify with you any fee-related issue.

(3) If we toll the time frame for response under paragraphs (e)(1) or (2) of this section, the tolling period ends upon our receipt of your response.

(f) *Unusual circumstances.* In the event of unusual circumstances, we may extend the time frame for response provided in paragraph (c) or (d) of this section by providing you with written notice of the unusual circumstances and the date on which a determination is expected to be made. Where the extension is for more than ten working days, we will provide you with an opportunity either to modify your request so that it may be processed within the statutorily-prescribed time limits or to arrange an alternative time period for processing your request or modified request.

(g) *Aggregating requests.* When we reasonably believe that multiple requests submitted by a requester, or by a group of requesters acting in concert, involving clearly related matters, can be viewed as a single request that involves unusual circumstances, we may aggreg-

gate the requests for the purposes of fees and processing activities.

(h) *Expedited processing.* You may request that the Council expedite processing of your FOIA request. To receive expedited processing, you must demonstrate a compelling need for such processing.

(1) For requests for expedited processing, a “compelling need” involves:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) A request made by a person primarily engaged in disseminating information, with a time urgency to inform the public of actual or alleged federal government activity.

(2) Your request for expedited processing must be in writing and may be made at the time of the initial FOIA request or at any later time.

(3) Your request for expedited processing must include a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing. If you are a person primarily engaged in disseminating information, you must establish a particular urgency to inform the public about the federal government activity involved in the request.

(4) The FOIA Officer will decide whether to grant or deny your request for expedited processing and notify the requester within ten calendar days of receipt. You will be notified in writing of the determination. Appeals of adverse decisions regarding expedited processing shall be processed expeditiously.

## § 10000.9 Business information.

(a) *Designation of confidential business information.* In the event a FOIA request is made for confidential business information previously submitted to the Government by a commercial entity or on behalf of it (hereinafter “submitter”), the regulations in this section apply. When submitting confidential business information, you must use a good-faith effort to designate, by use of appropriate markings, at the time of submission or at a reasonable time thereafter, any portions of your